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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, AUGUST 9, 2002

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

PETITION OF

CASE NO. PUE-2002-00249

MONTVALE WATER, INC.

For declaratory judgment

ORDER

On July 19, 2002, the State Corporation Commission ("Commission") issued an Order Setting Hearing and Procedural Schedule ("Order") in this proceeding, which provided, among other things, that the parties may conduct discovery. Montvale Water, Inc. initiated this proceeding by filing a petition for declaratory judgment. Rule 5 VAC 5-20-260, *Interrogatories to parties or requests for production of documents and things*, of the Commission's Rules of Practice and Procedure, 5 VAC 5-20-10 et seq. (the "Rules") does not permit discovery in declaratory judgment proceedings.

We found in the Order that the pleadings filed by the parties sufficiently demonstrated disputed facts, as well as legal issues, which warranted additional proceedings. The Order provided that the parties may conduct discovery, directed the filing of testimony, and scheduled an evidentiary hearing.

Although ordinarily discovery is not permitted in these types of proceedings, there appear to be disputed facts in this case that may be clarified by the issuance of discovery. Thus, pursuant to our authority under Rule 5 VAC 5-20-10 of the Rules, we believe a waiver of Rule 5 VAC 5-20-260 is appropriate in this case.

Accordingly, IT IS ORDERED THAT:

(1) Rule 5 VAC 5-20-260 of the Commission's Rules is hereby waived. The parties shall conduct discovery in accordance with the Commission's July 19, 2002, Order issued in this docket.

(2) This matter is continued generally.